

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 05-30

DATE: January 12, 2005

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Expansion of the Board's E-Filing Project To Include
Selected Documents in Unfair Labor Practice and Representation Cases
And Revision of the General Counsel's Internet E-mail Policy

Beginning January 14, 2005, the Board will expand its E-Filing Project, which permits the electronic filing of documents with the Office of the Executive Secretary of the Board through the Agency's Web site, to include selected documents in unfair labor practice and representation cases, subject to certain restrictions described below. Under the Board's E-Filing Project, parties will be able to connect to the Agency's Web site, complete the Board's E-Filing Form, and submit an expanded range of documents directly to the Office of the Executive Secretary's E-mail box.

In order to ensure consistency between the Board's E-filing project and the General Counsel's policy with respect to filing documents with Regional Offices through E-mail, we are expanding the use of E-mail by outside parties to include the Internet E-mail receipt in Regional Offices of documents when such documents are being filed electronically with the Board through its E-Filing Project. Except for documents over 15 pages in length, a printed copy of such documents need not be served on the Regional Office if a copy of the original is transmitted to the Region's mailbox by E-mail. Documents filed electronically with the Board that are over 15 pages in length may be transmitted to the Regional Office by E-mail, but a printed copy should also be sent so that it is received by the Regional Office within three (3) business days.

Specifically, the documents that may be filed electronically with the Board include:

- Any document fifteen (15) pages in length or less, including attachments, which may, under the Board's Rules, be filed with the Office of the Executive Secretary.
- Any such document over fifteen (15) pages in length and less than ten (10) MB in size, provided that the appropriate copies otherwise required by the Board's Rules are received by the Office of the Executive Secretary by traditional means within three (3) business days.

- These documents include, but are not limited to the following:

Representation Cases

- Exceptions to Post-Election Reports/Decisions
- Requests for Review
- Requests for Special Permission to Appeal Regional Director's Decision/Order
- Briefs
- Motions (all types)
- Other Requests (all types)
- Oppositions to Pending Requests or Motions

Unfair Labor Practice Cases

- Exceptions
- Cross Exceptions
- EAJA Applications
- Requests for Special Permission to Appeal ALJ Ruling
- Objections to Settlements
- Briefs
- Motion (all types)
- Other Requests (all types)
- Opposition to Pending Requests or Motions

Documents that May Not be Filed Electronically

- Documents to be filed with the Office of the General Counsel
- Documents to be filed with the Division of Judges
- Documents to be filed with a Regional Director
- Documents not permitted by the Board's Rules to be filed with the Office of the Executive Secretary
- Petitions for Advisory Opinions
- Documents that are more than ten (10) MB in size

The Board's E-Filing requirements further provide as follows:

E-FILINGS MUST BE TIMELY. Parties or other persons using the Board's E-Filing Form are cautioned not to rely on E-Filing for "last minute" requests. A failure to timely file or serve a document will not be excused on the claim that transmission could not be accomplished because the receiving machine was off-line or unavailable for any other reason. E-Filings must comport with all applicable time requirements, including [Section 102.111\(b\)](#). Further, the verification that your document has been successfully transmitted to the Web site does not indicate actual filing and timely receipt by the Board. A party will be sent an e-mail notification when its document has been received by the Board's Office of the Executive Secretary. The date and time of receipt specified

on this notification will be used to determine whether the submission is timely. This e-mail receipt will be delivered to the e-mail address listed on the E-Filing form.

PREFERRED DOCUMENT FORMAT IS PDF. The preferred format for submitting documents using E-Filing is Adobe's Portable Document Format (*.pdf).¹ However, in order to make the Board's E-Filing system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft Word format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft Word format may submit documents in simple text format (*.txt). The Board requires that documents submitted electronically must be (1) in a "read only" format and (2) free from any computer virus.

DOCUMENTS MUST BE VIRUS-FREE. A user of the E-Filing Project is responsible for taking all reasonable steps to prevent sending any material to the Agency that contains computer viruses. All submissions using this E-Filing Form will be scanned for viruses. Any submission that contains a virus will automatically be deleted by the Agency's computer system and thus will not be processed.

DOCUMENTS MUST BE COMPLETE. Any document submitted via the Board's E-Filing Form must be complete. Any attachments must be converted into electronic form and included as part of the document. No attachments may be filed (either electronically or by service of hardcopy) separately from the electronic document under any circumstances.

ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE. Any document submitted via the Board's E-Filing Form must be served on the parties and the Regional Director. A statement of service must be included in the document, pursuant to the expedited service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. Depending on the means of service, the statement of service should include the address and fax number of the individuals and parties served. The Board will not process any E-Filing without an appropriate statement of service.

COPIES OF LONG DOCUMENTS MUST BE SUBMITTED SEPARATELY.

Documents of fifteen (15) pages in length or less, including attachments, may be submitted via the Board's E-Filing Form without the copies normally required by the Board's Rules and Regulations. Documents over fifteen (15) pages in length and less than ten (10) MB in size may be submitted via the Board's E-Filing Form provided that the appropriate copies required by the Board's Rules and Regulations are promptly submitted via personal service or overnight delivery service, and are received by the Office of the Executive Secretary no later than three (3) business days after the electronic filing. Documents that are more than ten (10) MB in size may not be filed electronically.

BOARD'S DECISION WILL ISSUE THROUGH TRADITIONAL MEANS. The Board does not currently issue orders electronically. Accordingly, parties will be notified of the

¹ Any document filed electronically by Regional Offices with the Office of Executive Secretary must be filed in PDF format.

Board's decision concerning a document submitted via E-Filing through traditional means, typically by mail or facsimile transmission. Should the E-Filer fail to include its fax number on the E-Filing Form, notification of the decision will be by mail.

Change to Attachment to Docket Letters

The attachment that Regional Offices send to parties with the initial docket letters describing the General Counsel's E-mail and Casehandling policy has been revised to reflect this change. Regions should immediately begin using the revised attachment, which must be edited to include the Region's E-mail address.

If you have any questions regarding this memorandum, please contact your Assistant General Counsel or Deputy or the undersigned.

/s/
R.A.S.

Attachment

cc: NLRBU
Release to the Public

MEMORANDUM OM 05-30

COMMUNICATIONS WITH REGIONAL, SUBREGIONAL AND RESIDENT OFFICES AND BOARD AGENTS BY E-MAIL

E-MAIL COMMUNICATIONS: To encourage and facilitate the exchange of case handling information between the parties or their representatives and Board agents, individual Board agents' E-mail addresses will be made available to the parties. We encourage parties and/ or their representatives to provide the Regional, Subregional or Resident Office with their E-mail addresses. E-mail communications with a represented party generally will be through the party's attorney or other representative. If an outside party and/or its representative provides its E-mail address, Board agents will accept and send E-mail messages to arrange appointments, schedule witnesses and exchange other case-relevant information. Please note that a Board agent may be unable to access E-mails when he/she is away from the Regional office. If a party and/or its representative requests that communications not be sent by E-mail, Board agents will honor such request after receipt of the request in the Regional, Subregional or Resident Office.

E-MAIL DOCUMENTS: E-mails that contain a substantive discussion of the merits of a case, whether or not it contains attachments, are considered to be documents and must be submitted to the official E-mail box of the appropriate Regional, Subregional or Resident Office. The E-mail address for this office is:

The following are examples of documents that may be sent by E-mail to a Regional, Subregional or Resident Office:

- Position Statements
- Notices of Appearance
- Requests for an Extension of Time For Filing
Of Documents Due to be Filed With
a Regional Director or Hearing Officer
- Excelsior* Lists
- Observer Designations
- Requests To Proceed
- Withdrawal Requests
- Disclaimers of Interest

DOCUMENTS FILED ELECTRONICALLY WITH THE BOARD: With respect to **documents filed electronically with the Board**, Regional Office will accept service of electronic versions of such documents when sent by E-mail to the Region's mailbox provided that such documents are submitted in accordance with the Board's E-Filing Project rules. Except for documents over 15 pages in length, a hard copy of such documents need not be served on the Regional Office if a copy of the original is transmitted to Region's mailbox by E-mail. Documents filed electronically with the Board that are over 15 pages in length may be transmitted to the Regional Office by E-mail, but a hard copy should also be sent so that it is received by the Regional Office

within three (3) business days. Specifically, the documents that may be filed electronically with the Board Include:

- Any document fifteen (15) pages in length or less, including attachments, which may, under the Board's Rules, be filed with the Office of the Executive Secretary.
- Any such document over fifteen (15) pages in length and less than ten (10) MB in size, provided that the appropriate copies otherwise required by the Board's Rules are received by the Office of the Executive Secretary by traditional means within three (3) business days.
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- Motions (all types)
- Other Requests (all types)
- Oppositions to Pending Requests or Motions

Unfair Labor Practice Cases

- Exceptions
- Cross Exceptions
- EAJA Applications
- Requests for Special Permission to Appeal ALJ Ruling
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- Documents not permitted by the Board's Rules to be filed with the Office of the Executive Secretary
- Petitions for Advisory Opinions
- Documents that are more than ten (10) MB in size

The Board's E-Filing Project establishes the following six requirements:

1. E-FILINGS MUST BE TIMELY. Parties or other persons using the Board's E-Filing Form provided are cautioned not to rely on E-Filing for "last minute" requests. A failure to timely file or serve a document will not be excused on the claim that transmission could not be accomplished because the receiving machine was off-line or unavailable for any other reason. E-Filings must comport with all applicable time requirements including [Section 102.111\(b\)](#). Further, the verification that your document has been successfully transmitted to the Web site does not indicate actual filing and timely receipt by the Board. A party will be sent an e-mail notification when its document has been received by the Board's Office of the Executive Secretary. The date and time of receipt specified on this notification will be used to determine whether the submission is timely. This e-mail receipt will be delivered to the e-mail address listed on the E-Filing form.

2. PREFERRED DOCUMENT FORMAT IS PDF. The preferred format for submitting documents using E-Filing is Adobe's Portable Document Format (*.pdf). However, in order to make the Board's E-Filing system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft Word format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft Word format may submit documents in simple text format (*.txt). The Board requires that documents submitted electronically must be (1) in a "read only" format and (2) free from any computer virus.

3. DOCUMENTS MUST BE VIRUS-FREE. A user of the E-Filing Project is responsible for taking all reasonable steps to prevent sending any material to the Agency that contains computer viruses. All submissions using this E-Filing Form will be scanned for viruses. Any submission that contains a virus will automatically be deleted by the Agency's computer system and thus will not be processed.

4. DOCUMENTS MUST BE COMPLETE. Any document submitted via the Board's E-Filing Form must be complete. Any attachments must be converted into electronic form and included as part of the document. No attachments may be filed (either electronically or by service of hard copy) separately from the electronic document under any circumstances.

5. ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE. Any document submitted via the Board's E-Filing Form must be served on the parties and the Regional Director. A statement of service must be included in the document pursuant to the expedited service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. Depending on the means of service, the statement of service should include the address and fax number of the individuals and parties served. The Board will not process any E-Filing without an appropriate statement of service.

6. COPIES OF LONG DOCUMENTS MUST BE SUBMITTED SEPARATELY. Documents of fifteen (15) pages in length or less, including attachments, may be submitted via the Board's E-Filing Form without the copies normally required by the Board's Rules and Regulations. Documents over fifteen (15) pages in length and less than ten (10) MB in size may be submitted via the Board's E-Filing Form provided that the appropriate copies required by the Board's Rules and Regulations are promptly submitted via personal service or overnight delivery service, and are received by the

Office of the Executive Secretary no later than three (3) business days after the electronic filing. Documents that are more than ten (10) MB in size may not be filed electronically.

REQUIREMENTS FOR ALL OTHER PERMITTED DOCUMENTS SENT TO A

REGIONAL OFFICE: Documents should be in a “read only” format that ensures that the attachment may not be modified or altered. Because documents sent to a Regional, Subregional or Resident Office by E-mail may, on occasion, not be received by that office either because of an incorrect E-mail address, computer viruses or other technical problems, a hard copy of a document submitted to a Regional, Subregional or Resident Office by E-mail must always also be mailed or faxed to that office.

ATTACHMENTS: The NLRB utilizes the Microsoft Office suite of software. An attachment to an E-mail message sent to a Regional, Subregional or Resident Office must be in an electronic format that may be opened, read and printed by that office. Microsoft WORD documents must bear the suffix “.doc”; other documents must be named in a fashion to permit their recognition by the Microsoft suite of software, e.g., “.ppt” (PowerPoint) or “.xls” (Excel). The responsibility for the receipt and usability of a document rests exclusively upon the sender.

UNACCEPTABLE E-MAIL TRANSMISSIONS: Outside parties may not electronically transmit to a Regional, Subregional or Resident Office any of the following documents:

- Election Objections
- Representation Case Briefs to the Regional Director/ Hearing Officer
- Briefs to Administrative Law Judges
- Unfair Labor Practice Exceptions and Briefs to the Board (except those filed electronically with the Board)
- Answers to Complaints
- Motions for Summary Judgment (except those filed electronically with the Board)
- Petitions to Revoke Subpoenas (except those filed electronically with the Board)
- Unfair Labor Practice Charges and Representation Petitions

These documents are time-sensitive and timely receipt is occasionally disputed. Because E-mail may not be received for a variety of reasons, including an incorrect E-mail address or virus protections on the Agency’s computer network, receipt by the Regional, Subregional or Resident Office may be delayed or prevented altogether. In addition, these documents tend to be lengthy and may impose a burden on the Agency’s computer system. Accordingly, it is not administratively feasible to accept them. For these reasons, at this time, the General Counsel has decided not to accept receipt of the foregoing documents as E-mail messages or as attachments to E-mail messages. Therefore, attempts to deliver them by E-mail will not be recognized.

SUBJECT LINE: To facilitate the identification of the type of communication or document being transmitted to a Regional Office or a Board agent, outside parties and representatives are requested to place in the subject line of the E-mail message the case name, case number and a brief description of the communication or the document being sent, i.e., position statement, affidavit or scheduling of appointment. Similarly, Board agents will include similar information when sending E-mails to parties or their representatives.

OFFICIAL BUSINESS: Outside parties may send electronic communications to Regional, Subregional and Resident Offices dealing only with official Agency business. E-mails to Board agents or Regional, Subregional or Resident Offices not dealing with official Agency business, such as those soliciting business or advertising products or services, are strictly prohibited.

COMPUTER VIRUSES: Outside parties communicating with Board agents or Regional, Subregional or Resident Offices are requested to take all reasonable steps to prevent sending any material to the Agency that contains computer viruses or other matters that may be harmful to the Agency's information technology systems.